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Human Rights Council
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania, Andorra,* Argentina,* Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Croatia,* Cyprus,* Denmark,* Estonia,* Finland,* Greece,* Ireland,* Italy,* Latvia, Luxembourg,* Malta,* Mexico, Monaco,* Montenegro,* Netherlands, Peru,* Poland,* Portugal, Romania,* Serbia,* Slovakia,* Slovenia, Spain,* Sweden,* Switzerland, Ukraine,* United States of America,* Uruguay:* draft resolution

33/... Arbitrary detention

The Human Rights Council,

Reaffirming articles 3, 9, 10 and 29 and other relevant provisions of the Universal Declaration of Human Rights,

Recalling articles 9 to 11 and 14 to 22 of the International Covenant on Civil and Political Rights,

Recalling also Commission on Human Rights resolutions 1991/42 of 5 March 1991 and 1997/50 of 15 April 1997, and Human Rights Council resolutions 6/4 of 28 September 2007, 10/9 of 26 March 2009, 15/18 of 30 September 2010, 20/16 of 6 July 2012 and 24/7 of 26 September 2013,

Recalling further General Assembly resolution 60/251 of 15 March 2006 on the Human Rights Council,

Recalling Human Rights Council resolution 5/1 on institution-building of the Council and resolution 5/2 on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

1. *Stresses* the importance of the work of the Working Group on Arbitrary Detention;

* State not a member of the Human Rights Council.

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2. *Takes note with interest* of the latest reports of the Working Group,[1] including the recommendations contained therein;

3. *Requests* the States concerned to take account of the views of the Working Group and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken;

4. *Notes* the efforts of the Working Group to elaborate basic principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before a court;

5. *Encourages* all States:

(*a*) To give due consideration to the opinions and appeals of the Working Group;

(*b*) To take appropriate measures to ensure that their legislation, regulations and practices remain in conformity with relevant international standards and the applicable international legal instruments;

(*c*) To respect and promote the right of anyone arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power, and to be entitled to trial within a reasonable time or to release;

(*d*) To respect and promote the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court, in order that the court may decide without delay on the lawfulness of his or her detention and order his or her release if the detention is not lawful, in accordance with their international obligations;

(*e*) To ensure that the right referred to in subparagraph (*d*) above is equally respected in cases of administrative detention, including administrative detentions in relation to public security legislation;

(*f*) To ensure that anyone who is arrested or detained on a criminal charge has adequate time and facilities for the preparation of his or her defence, including the opportunity to engage and communicate with the counsel of his or her choice;

(*g*) To ensure that the conditions of pretrial detention do not undermine the fairness of the trial;

(*h*) To provide guarantees with respect to any form of detention against unlawful or arbitrary deprivations of liberty;

6. *Recognizes* that persons who are unlawfully or arbitrarily deprived of their liberty are vulnerable to extrajudicial killings, torture and other cruel, inhuman or degrading treatment or punishment, and to other human rights violations;

7. *Encourages* all States to cooperate with the Working Group and to give serious consideration to responding favourably to its requests for visits so that it may carry out its mandate even more effectively;

8. *Notes with concern* that a persistently large proportion of urgent appeals of the Working Group has been left unanswered, and urges the States concerned to give the necessary attention to the urgent appeals addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its possible final conclusions, as well as to the communication of the same case pursuant to the regular complaint procedure;

[1] A/HRC/27/48 and Add.1–5, A/HRC/30/36 and Add.1–3, and A/HRC/30/37.

9. *Encourages* the Working Group to, in accordance with its working methods, continue to provide the State concerned with relevant and detailed information concerning allegations of arbitrary detention in order to facilitate a prompt and substantive response to these communications without prejudice to the need for the State concerned to cooperate with the Working Group;

10. *Notes with deep concern* that the Working Group has received increasing information on reprisals suffered by individuals who were the subject of an urgent appeal or opinion or who applied a recommendation of the Working Group, and calls upon the States concerned to take appropriate measures to prevent such acts and to combat impunity by bringing perpetrators to justice and by providing victims with appropriate remedies;

11. *Expresses its profound thanks* to the States that have extended their cooperation to the Working Group and responded to its requests for information, and invites all States concerned to demonstrate the same spirit of cooperation;

12. *Notes with satisfaction* that the Working Group has been informed of the release of some of the individuals whose situation has been brought to its attention, while deploring the many cases that have not yet been resolved;

13. *Decides* to extend the mandate of the Working Group for a further period of three years, in accordance with Commission on Human Rights resolutions 1991/42 and 1997/50 and Human Rights Council resolution 6/4;

14. *Notes with concern* that, according to the Working Group, it has insufficient resources to exercise its mandate effectively, particularly in relation to human resources, of which there is an acute need, and requests the Secretary-General to provide the Working group with all the assistance necessary for it to be able to sustainably fulfil its mandate effectively, in particular by putting adequate human and material resources at its disposal, including with regard to field missions;

15. *Decides* to continue its consideration of the question of arbitrary detention in conformity with its programme of work.